

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2574

1       AN ACT TO AMEND SECTION 31-5-51, MISSISSIPPI CODE OF 1972, TO  
2 INCREASE THE THRESHOLD AMOUNT TO \$50,000.00 FOR LUMP-SUM PAYMENTS  
3 AND PROVISIONS FOR PERFORMANCE AND PAYMENT BONDS; AND FOR RELATED  
4 PURPOSES.

5       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6           **SECTION 1.** Section 31-5-51, Mississippi Code of 1972,  
7 is amended as follows:

8           31-5-51. (1) Any person entering into a formal contract  
9 with the state or any county, city or political subdivision  
10 thereof, or other public authority for the construction,  
11 alteration or repair of any public building or public work, before  
12 entering into such contract, shall furnish to such public body,  
13 except as provided in subsection (5) of this section, bonds with  
14 good and sufficient surety as follows:

15           (a) A performance bond payable to, in favor of or for  
16 the protection of such public body, as owner, for the work to be  
17 done in an amount not less than the amount of the contract,  
18 conditioned for the full and faithful performance of the contract;

24 (c) The bonds herein provided for may be made by any  
25 surety company which is authorized to do business in the State of  
26 Mississippi and listed on the United States Treasury Department's  
27 list of acceptable sureties, or such bonds may be guaranteed by a  
28 personal surety as provided for herein. The personal surety shall  
29 deposit with the State Treasurer cash or certificates of deposit  
30 in an amount not less than the amount of the contract, and the  
31 State Treasurer shall hold same in trust and on deposit for the  
32 benefit of the public body that is a party to the contract  
33 providing for the construction, alteration or repair of the public  
34 building or for the public work.

44 result of unreasonable acts of the contractor, shall have the  
45 right to sue on such payment bond for the amount, or the balance  
46 thereof that is due and payable, but unpaid at the time of  
47 institution of such suit and to prosecute said action to final  
48 execution and judgment. Notwithstanding anything to the contrary  
49 contained herein, if the amount claimed in such action is subject  
50 to contractual provisions or conditions, between the parties  
51 involved in such action, the action shall be abated pending the  
52 performance of such provisions and the fulfillment of such  
53 conditions.

54 (3) Any person having direct contractual relationship with a  
55 subcontractor but no contractual relationship express or implied  
56 with the contractor furnishing said payment bond shall have a  
57 right of action upon the said payment bond upon giving written  
58 notice to said contractor within ninety (90) days from the date on  
59 which such person did or performed the last of the labor or  
60 furnished or supplied the last of the material for which such  
61 claim is made, stating with substantial accuracy the amount  
62 claimed and the name of the party to whom the material was  
63 furnished or supplied or for whom the labor was done or performed.  
64 Such notice shall be given in writing by the claimant to the  
65 contractor or surety at any place where the contractor or surety  
66 maintains an office or conducts business. Such notice may be  
67 personally delivered by the claimant to the contractor or surety,  
68 or it may be mailed by certified mail, return receipt requested,



69 postage prepaid, to the contractor or surety. No such action may  
70 be maintained by any person not having a direct contractual  
71 relationship with the contractor-principal, unless the notice  
72 required by this section shall have been given.

73 (4) The only persons protected by such payment bond, subject  
74 to the notice provisions of this section are:

75 (a) Subcontractors and material suppliers of the  
76 contractor;

77 (b) Sub-subcontractors and material suppliers of those  
78 subcontractors named in subsection (4) (a) of this section; and

79 (c) Laborers who have performed work on the project  
80 site.

81 (5) Whenever a contract is less than \* \* \* Fifty Thousand  
82 Dollars (\$50,000.00) the owners may elect to make a lump-sum  
83 payment at the completion of the job. Lump-sum payments will not  
84 be made until completion and acceptance by the governing agency.  
85 In such a case a performance bond or payment bond will not be  
86 required.

87 (6) Except as otherwise provided in subsection (1) (c) for a  
88 personal surety, no surety or surety company shall be allowed to  
89 guarantee or write bonds for the benefit of the public body that  
90 is a party to a contract providing for the construction,  
91 alteration or repair of a public building or for public work,  
92 unless that surety is listed on the United States Treasury  
93 Department's list of acceptable sureties. If the surety is not



94 listed on the United States Treasury Department's list of  
95 acceptable sureties, the public body for which the public work is  
96 being performed shall be liable to the extent that the surety  
97 would be liable.

98 (7) Any person entering into a formal contract with the  
99 state which exceeds Five Thousand Dollars (\$5,000.00), or with a  
100 county, city or other public authority which exceeds Twenty-five  
101 Thousand Dollars (\$25,000.00), for the construction, alteration or  
102 repair of any public building or public work, before entering into  
103 such contract, shall furnish to the public body proof of general  
104 liability insurance coverage in an amount not less than One  
105 Million Dollars (\$1,000,000.00) for bodily injury and property  
106 damage. Exempted from the provisions of this subsection are any  
107 persons who enter into a contract with the Mississippi Department  
108 of Rehabilitation Services for the construction, alteration or  
109 repair of the home of a disabled individual who has been  
110 determined eligible for services by the Mississippi Department of  
111 Rehabilitation Services.

112 **SECTION 2.** This act shall take effect and be in force from  
113 and after July 1, 2025.

